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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: :  
Isabelle AFRIAT : EXAMINER: HAGHIGHATIAN  
SERIAL NO.: 09/847,388 :  
FILED: MAY 3, 2001 : GROUP ART UNIT: 1616  
FOR: USE OF FIBERS IN A CARE COMPOSITION  
OR A MAKE-UP COMPOSITION TO MAKE  
THE SKIN MATTE

RECEIVED  
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*P. Tuck*  
*#10*  
*11/19/02*

**REQUEST FOR RECONSIDERATION**

ASSISTANT COMMISSIONER FOR PATENTS  
WASHINGTON, D.C. 20231

SIR:

In response to the Office Action mailed August 13, 2002, Applicant respectfully requests reconsideration of the above-identified application in view of the following remarks.

**REMARKS**

The pending claims relate to compositions containing fibers and an active agent for treating greasy skin, as well as to methods of changing the appearance of skin, specifically fading out skin relief defects in skin, using fiber-containing compositions. As noted in the present specification, previous attempts to obtain compositions useful for changing the skin's appearance yielded compositions having numerous shortcomings such as, for example, giving the skin an unnatural appearance or accentuating skin defects. (See, page 1, lines 19-28). Moreover, fiber-containing compositions were not known to possess the ability to affect the skin's appearance, particularly with respect to fading out skin relief defects in skin. (Page 2,

lines 7-11). The claimed invention addresses these problems, and provides fiber-containing compositions useful for changing the skin's appearance (including fading out skin defects). The claimed invention also provides fiber-containing compositions which also contain an active ingredient for treating greasy skin. Neither of the cited references teaches or suggests the claimed invention or any of the benefits associated with it. Accordingly, the claimed invention represents an advance in the art deserving of patent protection.

In view of this background, the sole remaining rejection made in the outstanding Office Action will now be addressed.

#### **REJECTION UNDER 35 U.S.C. §103**

The Office Action rejected claims 1-45 under 35 U.S.C. § 103 as obvious over JP 07196440 ("Uchizuka") in view of U.S. patent 6,306,407 ("Castro"). In view of the following comments, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Neither Uchizuka nor Castro disclose compositions containing active agents for treating greasy skin. Thus, their combination cannot yield the presently claimed invention, which requires the presence of such an agent.

Regarding Uchizuka, the Office Action initially admits that this reference "lacks teachings on specific active agents." (Page 2). However, the Office Action later asserts that Uchizuka's example 3 discloses the addition of an "antiseptic" compound reading on chlorhexidine in claim 2 of the present application. (Page 5).

As the Office Action recognizes, Uchizuka does not disclose incorporating an active agent for treating greasy skin into a fiber-containing composition. Regarding Uchizuka's purported disclosure concerning "antiseptic" compounds, Applicant cannot find any reference to any such compounds in Uchizuka. Presumably, the Office Action equates the

preservatives in Uchizuka's compositions with antiseptic compounds. However, preservatives (compounds for inhibiting product contamination) are not the same as active agents for treating greasy skin. Merely because Uchizuka's compositions contain preservatives does not mean that Uchizuka discloses compositions containing active agents for treating greasy skin.

Regarding Castro, this reference does not compensate for Uchizuka's deficiencies. In support of the assertion that Castro discloses the claimed active agents, the Office Action focuses on Castro's disclosure of (1) zinc oxide; (2) antioxidants; and (3) oil-soluble actives. However, none of these compounds/groups of compounds discloses active agents for treating greasy skin.

Castro teaches that zinc oxide is a particulate sunscreen (col. 6, lines 31-32), not an active agent for treating greasy skin. Moreover, zinc oxide is not a zinc salt<sup>1</sup> and, thus, cannot be an active agent for treating greasy skin within claim 2 (which refers to "zinc salts").

Antioxidants are not active agents for treating greasy skin. Antioxidants in cosmetic and dermatological compositions react with free oxygen to prevent other compounds in the compositions from undergoing oxidation. Such compounds and mechanisms of action are not believed to be useful in treating greasy skin.

Finally, "oil-soluble actives" is such a broad category that it effectively provides no guidance whatsoever for one skilled in the art to follow which would suggest adding an active agent for treating greasy skin to Castro's compositions, particularly in view of the fact

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<sup>1</sup> A salt is defined as the compound formed when the hydrogen atom of an acid is replaced by a metal or its equivalent, *e.g.*, a  $\text{Zn}^{2+}$  radical. (Hawley's Condensed Chemical Dictionary, Twelfth Edition, Revised by Richard J. Lewis, Sr. (1993), p. 1020, copy attached hereto). Thus, for zinc oxide to be a salt,  $\text{HO}^-$  would have to be the corresponding acid. Since hydroxy ion is not an acid, zinc oxide cannot be a zinc salt.

that the two oil-soluble actives Castro identifies, vitamins A and E, are not active agents for treating greasy skin. Moreover, Castro's limiting acceptable active agents to oil-soluble agents completely excludes water-soluble active agents. Because some active agents for treating greasy skin within the context of the claimed invention are oil-soluble and others are water-soluble, Castro's exclusion of all such water-soluble compounds would lead one skilled in the art away from the claimed invention.

Thus, neither Uchizuka nor Castro discloses compositions containing active agents for treating greasy skin, so their combination cannot yield the presently claimed fiber-containing compositions which require the presence of such an active agent. For this reason alone the claimed invention is patentable, and the rejection under 35 U.S.C. § 103 should be withdrawn with respect to all claims requiring the presence of both fibers and an active agent for treating greasy skin (claims 1-20, 35, 36 and 43-45).

Moreover, neither Uchizuka nor Castro expressly discloses compositions having a light scattering effective amount of fibers as is required by claims 21-34 and 37-42. Nor does either reference inherently disclose this feature. Uchizuka describes his fiber-containing compositions as having "superior resistance to water and oil." [Cols. 1-2, par. 003]. Although Uchizuka is somewhat difficult to understand, Applicant respectfully submits that a fair reading of this reference is that Uchizuka's compositions, when applied to skin, leave liquid (water/oil) on the skin (due to its superior water and oil resistance), making the skin appear shiny. Thus, Uchizuka does not suggest achieving a matte effect, nor can Uchizuka suggest achieving a light scattering effect with fibers.

Castro's compositions contain substantially less fiber (from about 0.005 to about 1.0%, preferably 0.01 to 0.5% — see, col. 4, lines 6-10) than the preferred compositions of the present invention. (See, examples). Thus, Castro's compositions, in which fibers wick

and/or evaporate liquid away from skin, do not necessarily provide the same light-scattering effect as the compositions of the present invention which are exemplified by compositions containing much more fiber than Castro's compositions.

Furthermore, for these same reasons, neither Uchizuka nor Castro discloses or suggests (expressly or inherently) that compositions containing fibers and an active agent for treating greasy skin could be used to change the appearance of skin, let alone to fade out skin relief defects in skin such as microreliefs and pores. Thus, claims 23 and 43-45 are free of the cited art for this reason as well.

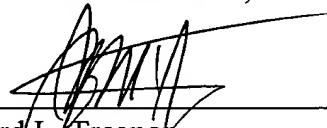
Finally, and again in view of their inadequate disclosures, neither Uchizuka nor Castro teaches, suggests or recognizes (expressly or inherently) any benefits associated with compositions having the covering indexes specified in the claims. Due to this critical omission, one skilled in the art, seeking to create a fiber-containing composition, would not have been motivated by Uchizuka and/or Castro to make or use compositions having particular covering indexes. For this reason as well, claims 13, 33, 35-42, 44 and 45 are neither anticipated nor rendered obvious by the cited art.

In view of the above, Applicant respectfully submits that the rejection under 35 U.S.C. §103 should be withdrawn with respect to all of the pending claims.

Applicant believes that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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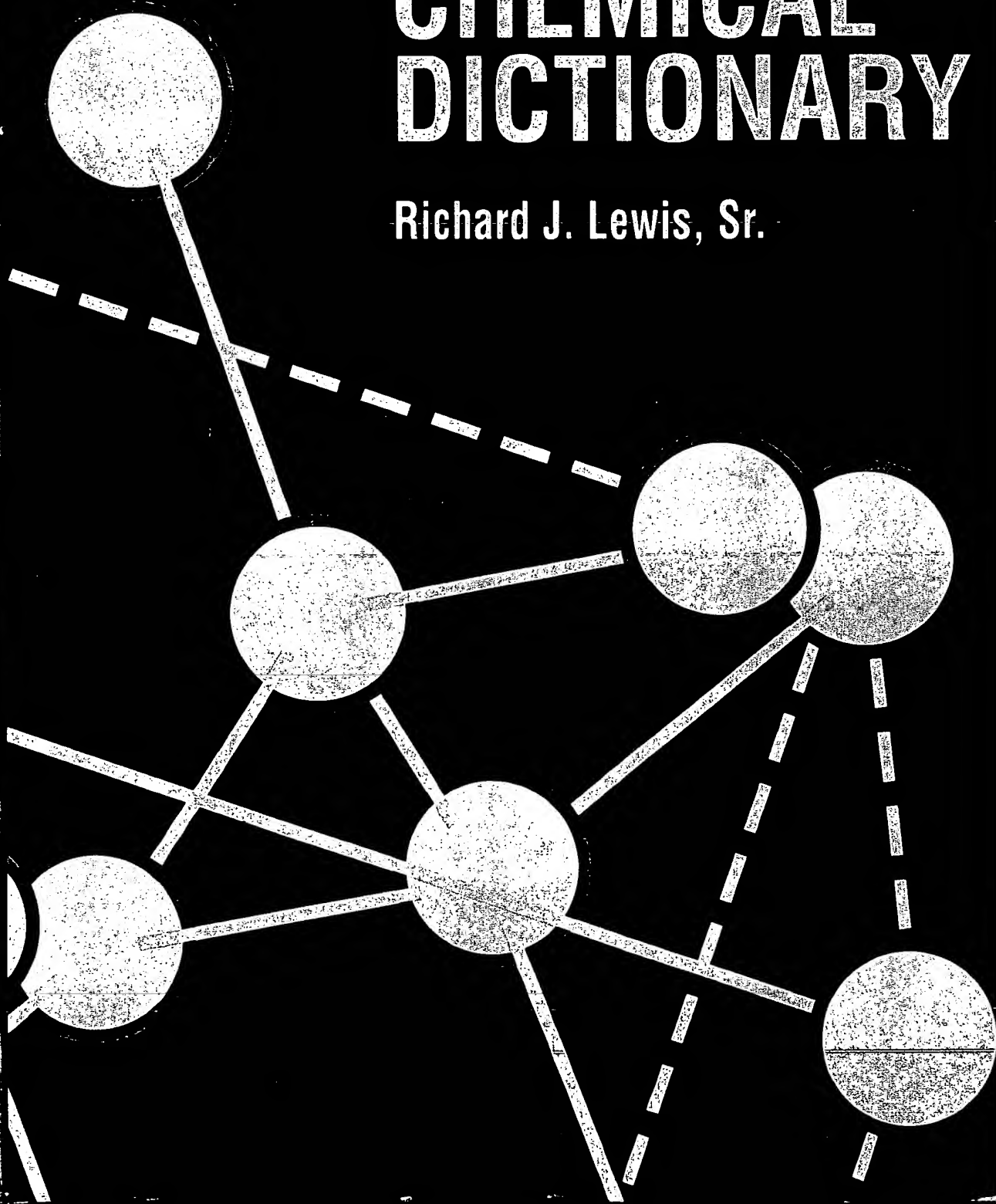
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# CONDENSED CHEMICAL DICTIONARY

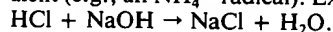
Richard J. Lewis, Sr.



soluble in water, insoluble in alcohol, a pure form of sodium carbonate (soda ash).

Use: Washing textiles, bleaching linen and cotton, general cleanser.

**salt.** (1) The compound formed when the hydrogen of an acid is replaced by a metal or its equivalent (e.g., an  $\text{NH}_4^+$  radical). Example:



This is typical of the general rule that the reaction of an acid and a base yields a salt and water. Most inorganic salts ionize in water solution.

(2) Common salt, sodium chloride, occurs widely in nature, both as deposits left by ancient seas and in the ocean, where its average concentration is 2.6%.

See sodium chloride. See also soap.

**salt bath.** A molten mixture of sodium, potassium, barium, and calcium chlorides or nitrates, to which sodium carbonate and sodium cyanide are sometimes added. Used for hardening and tempering of metals and for annealing both ferrous and nonferrous metals. Temperatures used may be as high as 1315C for hardening high-speed steels. Commercial mixtures are available for a variety of specifications.

See also fused salt.

**salt cake.** Impure sodium sulfate (90-99%).

Properties: For properties and derivation, see sodium sulfate.

Grade: Technical, glassmakers' (iron-free).

Use: Paper pulp, detergents and soaps, plate and window glass, sodium salts, ceramic glazes, dyes.

See sodium sulfate.

**salt, fused.** See fused salt.

**salting out.** Reduction in the water-solubility of an organic solid or liquid by adding a salt (usually sodium chloride) to an aqueous solution of the substance. Ions of the dissolved salt attract and hold water molecules, thus making them less free to react with the solute. The result of this is to decrease the solubility of the solute molecules with consequent separation or precipitation. Colloidal suspensions of proteins, soaps, and similar substances are precipitated in this way.

**salt, molten.** See fused salt.

**salt of tartar.** See acid potassium tartrate.

**salt peter.** See niter, potassium nitrate.

**salt, rock.** See sodium chloride.

**salvarsan.** (dihydroxydiaminoarsenobenzene dihydrochloride).  $\text{C}_{12}\text{H}_{14}\text{O}_2\text{N}_2\text{Cl}_2\text{As}_2 \cdot 2\text{H}_2\text{O}$ .

Use: To treat syphilis.

**salvia oil.** The Dalmatian variety of sage oil.

**samarium.** CAS: 7440-19-9. Sm. A rare-earth metal of the lanthanide group (group IIIB of the periodic table); atomic number 62; aw 150.4; valences = 2, 3; seven stable isotopes.

Properties: Hard, brittle metal that quickly develops an oxide film in air. An active reducing agent. Ignites at 150C, liberates hydrogen from water, d 7.53, mp 1072C, bp 1900C, hardness similar to iron, high neutron absorption capacity. Combustible.

Occurrence: Australia, Brazil, Southeastern U.S., South Africa; also from bastnasite ore in California.

Derivation: Reduction of the oxide with barium or lanthanum.

Use: Neutron absorber, dopant for laser crystals, metallurgical research, permanent magnets.

**samarium chloride.**  $\text{SmCl}_3 \cdot 6\text{H}_2\text{O}$ .

Properties: Faintly yellow, hygroscopic crystals; d 2.383. Loses  $5\text{H}_2\text{O}$  at 110C, soluble in water.

Derivation: By treating the carbonate or oxide with hydrochloric acid.

**samarium oxide.**  $\text{Sm}_2\text{O}_3$ .

Properties: Cream-colored powder, d 8.347, mp 2300C, insoluble in water, soluble in acids, absorbs moisture and carbon dioxide from the air.

Use: Catalyst in the dehydrogenation of ethanol, infrared-absorbing glass, neutron absorber, preparation of samarium salts.

**sampling.** The methods and the techniques used in obtaining representative test samples of quantity lots of raw materials, semiprocessed work, and finished product for production and quality control. Rules for sampling procedures for both solid and liquid materials have been established by the National Cottonseed Products Association, Memphis, TN, and by the National Institute of Oilseed Products, San Francisco, CA. The techniques of physical sampling are one application of statistical quality control.

**SAN.** Abbreviation for styrene-acrylonitrile polymer.

See polystyrene.

**sand.** Sediment particulates ranging in size from 1/16 to two millimeters.

See silica.

**sandalwood oil.** (santal oil). A pale yellow, essential oil; strongly levorotatory.

Use: In fragrances, perfumes, and flavoring.

**sandarac.** A rocco. Its amorphous insoluble in Use: Special

**sand casting.**

**Sandmeyer di** ation of a c symmetrica cyanide in a duction wi sure with c anil; also fo cyanofom benzene or

**Sandmeyer is** Formation by conden amine, an trated sulfi to isatin on

**Sandmeyer r** groups in a groups in 1 powder, or

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**sanitizer.** A for use o utensils, c Among tl mines, ar compound pounds, n See also an

**santal oil.**

**santalol.** C  $\text{C}_{15}\text{H}_{24}\text{O}$ .